

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 ERDA-05 FEA-01 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

STR-04 TAR-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01

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P R 181809Z JUL 75

FM AMEMBASSY LONDON

TO SECSTATE WASHDC PRIORITY 3013

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

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C O N F I D E N T I A L SECTION 01 OF 03 LONDON 11062

E.O. 11652: GDS

TAGS: ENRG, UK

SUBJECT: NORTH SEA OIL: PETROLEUM AND SUBMARINE PIPE-
LINES BILL

REF: A) LONDON 10370, B) LONDON 10564, C) LONDON 16068,
DECEMBER 9, 1974 (NOTAL); D) STATE 168231 (NOTAL)

1. SUMMARY: BILL TO BE REPORTED OUT OF COMMITTEE
JULY 24 AS AMENDED. DEPARTMENT OF ENERGY TELLS US GOVT
HAS MADE NUMEROUS CONCESSIONS TO VIEWS OF COMPANIES AND
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THAT BILL NOW IS MUCH MORE ACCEPTABLE TO THEM. NONETHE-

LESS WE BELIEVE INFORMAL, HIGH LEVEL APPROACH TO GOVT WOULD BE USEFUL TO A) NOTE POINTS OUTLINED REF D, B) UNDERLINE OUR CONTINUING INTEREST IN NORTH SEA LEGISLATION, C) MAKE RECORD TO WHICH WE MAY WISH TO REFER WHEN GOVT BEGINS TO IMPLEMENT BILL, AND D) CONGRATULATE GOVT ON SEEKING AGREEMENT WITH INDUSTRY ON SOME IMPORTANT POINTS. END SUMMARY.

2. COMMITTEE DEBATE ON PETROLEUM AND SUBMARINE PIPELINES BILL ENDED UNDER GUILLOTINE PROCEDURE JULY 15. COMMITTEE WILL MAKE REPORT TO HOUSE OF COMMONS PROBABLY JULY 24. HOUSE WILL ADOPT BILL AND SEND IT TO LORDS, WHICH WILL PROBABLY AMEND IT FURTHER BEFORE RETURNING IT TO HOUSE. HOUSE IS THEN LIKELY TO REAMEND BILL TO RESTORE ESSENTIALLY THE SAME LANGUAGE AS THAT REPORTED OUT BY THE COMMITTEE. BILL IS LIKELY TO BECOME LAW BY MID-OCTOBER.

3. TEXT OF BILL AS AMENDED BY COMMITTEE IS LIKELY TO BE AVAILABLE WITHIN NEXT FEW DAYS. IN THE ABSENCE OF A REVISED TEXT WE DISCUSSED MAIN PROVISIONS AS AMENDED BY COMMITTEE WITH DEPARTMENT OF ENERGY (G. W. MONGER, ASSISTANT SECRETARY, CONTINENTAL SHELF POLICY DIVISION) JULY 17. MONGER SUMMARIZED THE PRINCIPAL CHANGES IN THE THREE MAJOR PORTIONS OF THE BILL (LICENSING, PIPELINES, BNOC) AS FOLLOWS.

4. RETROSPECTIVE CHANGES IN LICENSES: FEATURE OF THE BILL OF GREATEST CONCERN TO THE OIL COMPANIES HAS BEEN THE CHANGES IN THE STANDARD CLAUSES OF (EXISTING AND FUTURE) LICENSING AGREEMENTS. THESE HAVE BEEN AMENDED AS FOLLOWS:
A. EXPLORATION (CLAUSE 14). THE INDUSTRY FELT THAT THE GOVERNMENT MIGHT OBLIGE THEM TO UNDERTAKE UNECONOMIC EXPLORATION PROGRAMS IN ADDITION TO THOSE THEY BELIEVED COMMERCIALY FEASIBLE. DISAGREEMENTS BETWEEN COMPANIES AND GOVERNMENT ABOUT COMMERCIAL FEASIBILITY OF ADDITIONAL EXPLORATION ARE NOW TO BE JUDGED ACCORDING TO THE STANDARD OF PERFORMANCE TO BE EXPECTED FROM "A CONSCIENTIOUS AND COMPETENT LICENSEE." DISPUTES ARE ARBITRABLE AS PROVIDED IN CLAUSE 40 UNDER ESTABLISHED ARBITRATION PROCEDURE. THE PENALTY FOR NONCOMPLIANCE CONTINUES TO BE CONFIDENTIAL

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REVOCATION OF THE LICENSE BUT IN QUESTIONS OF EXPLORATION THE MINISTER MAY REVOKE ONLY THAT PART OF THE LICENSE WHICH IS IN DISPUTE. THERE ARE NO PROVISIONS FOR COMPENSATION IF THE LICENSE IS REVOKED IN WHOLE OR IN PART.

B. DEPLETION (CLAUSES 15 AND 16). UNDER THE ORIGINAL BILL THE MINISTER HAD POWER TO ORDER REDUCTION OR INCREASE OF PRODUCTION WITHOUT LIMIT OF AMOUNT OR PERIOD OF APPLIC-

ATION. THE INDUSTRY COMPLAINED THAT THIS MADE RATIONAL
PLANNING IMPOSSIBLE AND THAT THIS PROVISION WOULD GREATLY
REDUCE THEIR ABILITY TO RAISE INVESTMENT CAPITAL. THIS
PROVISION HAS BEEN AMENDED SO THAT WHEN THE LICENSEE'S
DEVELOPMENT PROGRAM IS APPROVED, THE GOVERNMENT WILL ISSUE
A "LIMITATION NOTICE" WHICH WILL GIVE THE GOVERNMENT THE
POWER TO CUT BACK PRODUCTION BY NO MORE THAN THE AMOUNT
SPECIFIED IN THE NOTICE AND NO SOONER THAN THE TIME SPECI-
FIED IN THE NOTICE. THUS THE GOVERNMENT MIGHT REQUIRE A
REDUCTION OF 20 PERCENT AFTER A GIVEN YEAR. IF A CUTBACK
WERE ORDERED IT MIGHT BE LESS THAN THE LIMIT SPECIFIED
BUT IN NO CASE COULD BE MORE OR SOONER. THE INDUSTRY
THUS WILL KNOW WITH CERTAINTY THE WORST IT CAN EXPECT.

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P R 181809Z JUL 75

FM AMEMBASSY LONDON

TO SECSTATE WASHDC PRIORITY 3014

INFO AMEMBASSY BONN

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C. INCREASED PRODUCTION. CLAUSE 16 HAS BEEN AMENDED TO SAY THAT THE GOVERNMENT CANNOT REQUIRE AN INCREASE IN PRODUCTION EXCEPT IN A NATIONAL EMERGENCY AND THEN ONLY BY THE COST OF ONE WELL.

D. DEFERMENT. UNDER THE ORIGINAL BILL THE MINISTER COULD APPROVE A COMPANY'S PLAN BUT DEFER PRODUCTION FOR A STATED PERIOD, E.G. FIVE YEARS. HE COULD THEN ORDER
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FURTHER DEFERMENTS AND THUS POSTPONE PRODUCTION INDEFINITELY. UNDER THE AMENDED BILL ANY DEFERMENT PERIOD IS DEFINITELY FIXED WHEN THE GOVERNMENT APPROVES THE COMPANY'S DEVELOPMENT PROGRAM.

E. DEVELOPMENT PROGRAM. THE GOVERNMENT BELIEVES THAT OBLIGING COMPANIES TO FURNISH DEVELOPMENT PROGRAMS IS ONLY A FORMALIZATION OF A HITHERTO INFORMAL, CONSULTATIVE MECHANISM. DEVELOPMENT PROGRAMS WILL BE PROPOSED BY THE COMPANY AND WILL COVER THE PERIOD THE COMPANY EXPECTS THE ECONOMIC LIFE OF THE FIELD TO BE.

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F. ROYALTY IN KIND. THE INDUSTRY FELT THAT THE BILL AS ORIGINALLY DRAFTED WOULD ALLOW THE GOVERNMENT TO TAKE ROYALTY IN KIND AT TIMES AND IN WAYS OF ITS OWN CHOOSING, WHICH MIGHT INTERFERE WITH THE COMPANY'S OWN PLANS TO LIFT ITS CRUDE. THE BILL NOW PROVIDES THAT THE MINISTER MUST HAVE REGARD TO THE COMPANY'S LIFTING ARRANGEMENTS WHEN TAKING ROYALTY IN KIND.

G. THE PENALTY FOR NONCOMPLIANCE CONTINUES TO BE SURRENDER OF THE WHOLE OF THE LICENSE (EXCEPT FOR EXPLORATION--SEE 4A ABOVE).

5. PIPELINES: THE OBJECT OF THE BILL AS REGARDS PIPELINES IS TO PREVENT A PROLIFERATION OF PIPELINES AND TO RATIONALIZE THE PIPELINE NETWORK. THE VIEWS OF COMPANIES RE THESE PROVISIONS VARY ACCORDING TO THEIR SIZE AND THEIR OWN ABILITY TO BUILD PIPELINES TO SERVE THEIR OWN FIELDS. THREE MAJOR CHANGES HAVE BEEN MADE IN THE BILL:

A. IN OBLIGING COMPANIES TO COMBINE IN THE USE OF A PIPE-LINE, THE GOVERNMENT WILL NOW TAKE THE FUTURE REQUIREMENT OF THE PIPELINE OWNER INTO ACCOUNT AND PIPELINE OWNERS MAY THUS COUNT ON BEING ABLE TO UTILIZE EXTRA CAPACITY BUILT INTO THE LINE FOR FUTURE REQUIREMENTS.

B. THE AMENDED BILL MAKES IT CLEAR THAT WHEN THE GOVERNMENT CHANGES THE ROUTE OR MODIFIES THE SPECIFICATIONS OF CONFIDENTIAL

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AN EXISTING LINE THE ADDITIONAL COST WILL BE BORN BY THE BENEFICIARIES RATHER THAN THE ORIGINAL OWNER OF THE LINE.

C. THE ORIGINAL BILL REQUIRED AUTHORIZATION FROM THE GOVERNMENT FOR FUTURE PIPELINES BUT DID NOT SPECIFY THE DURATION OF THIS AUTHORIZATION. THE AMENDED BILL MAKES THE DURATION OF THE AUTHORIZATION INDEFINITE.

6. BNOC: THE BILL PROVIDES FOR THE ESTABLISHMENT OF A BRITISH NATIONAL OIL COMPANY (BNOC) WHICH THE GOVERNMENT REGARDS AS A MATTER FOR ITS DECISION AND ONE IN WHICH THE COMPANIES HAVE LESS INTEREST THAN IN LICENSES OR PIPE-LINES. THUS, THE GOVERNMENT HAS BEEN LESS DISPOSED TO BUT THE GOVERNMENT HAS OR WILL GIVE ASSURANCES ALONG THE FOLLOWING LINES:

A. BNOC WILL BEHAVE COMMERCIALY WHEN IN PARTNERSHIP WITH PRIVATE FIRMS.

B. BNOC WILL BE SUBJECT TO THE SAME LICENSING CONTROLS AS PRIVATE COMPANIES.

C. BNOC WILL BEHAVE COMMERCIALY WHEN OPERATING DOWN-STREAM.

D. BNOC WILL TRANSFER ITS CRUDE FROM UPSTREAM TO DOWN-STREAM AT MARKET PRICES.

7. HOWEVER BNOC WILL CONTINUE TO BE EXEMPT FROM THE PETROLEUM REVENUE TAX, DESPITE STRENUOUS OBJECTIONS OF PRIVATE COMPANIES, ON THE GROUNDS THAT AS ALL BNOC'S REVENUES GO TO THE GOVERNMENT ANYWAY THERE IS NO POINT IN DISTINGUISHING BETWEEN THAT WHICH COMES AS A TAX AND THAT WHICH DOES NOT.

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FM AMEMBASSY LONDON

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8. THESE ASSURANCES APPEAR IN THE HANSARD RECORD OF THE COMMITTEE'S DEBATES AND IN THE HANSARD RECORDS OF PARLIAMENTARY DEBATES. THE ASSURANCES GIVEN WITH REGARD TO DEPLETION POLICY ON DECEMBER 6 (REF C) WILL BE GIVEN EFFECT IN THE LIMITATION NOTICES OUTLINED IN PARAGRAPH 4 B ABOVE. FOR INSTANCE, ON DECEMBER 6, THE THEN SECRETARY OF STATE FOR ENERGY (VARLEY) SAID THAT NO REDUCTIONS IN OUTPUT WOULD BE ORDERED BEFORE 1982, AND THUS
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1982 WILL BE THE EARLIEST DATE MENTIONED IN THE LIMITATION NOTICES.

9. MONGER EMPHASIZED THAT GOVT HAS DONE MUCH TO ACCOMMODATE THE VIEWS OF COMPANIES AND HAS MADE MANY CONCESSIONS TO THEIR POSITION. THIS IS TRUE. HOWEVER, WE BELIEVE THAT IT WOULD STILL BE USEFUL TO MAKE A FURTHER INFORMAL, HIGH LEVEL APPROACH TO DEPT OF ENERGY. WE PLAN TO NOTE THE POINTS RAISED IN REF D, IN PARTICULAR OUR REGRET THAT THE BRITISH GOVERNMENT HAS FOUND IT NECESSARY TO AMEND EXISTING LICENSES. APPROACH WOULD ALSO SERVE TO UNDERLINE OUR CONTINUING INTEREST IN NORTH SEA LEGISLATION, AND WOULD MAKE RECORD TO WHICH IT MAY BE NECESSARY TO REFER WHEN GOVERNMENT BEGINS TO IMPLEMENT THE BILL. WE PLAN TO CONGRATULATE GOVT ON ITS EVIDENT EFFORT TO TAKE VIEWS OF OIL COMPANIES ON SOME POINTS INTO ACCOUNT. WE ARE ALSO CONSIDERING DELIVERY OF NOTE (DRAFT TRANSMITTED SEPT 1982) WHEN THIS APPROACH IS MADE. HOWEVER, WE EXPECT TO CONSULT FURTHER WITH OIL COMPANIES PRIOR TO APPROACH IN ORDER TO GET THEIR REACTIONS TO REVISED BILL WHICH MAY HAVE A BEARING ON TONE AND CONTENT OF APPROACH AND QUESTION OF NOTE.

RICHARDSON

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Message Attributes

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